

Pro Bono News

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Director's Message

Kristen Wagner, Director of Pro Bono Services



Wagner

All attorneys are taught in law school that they have a professional responsibility, an ethical obligation, to provide legal services to individuals who cannot afford an attorney. In

recent years, this responsibility has been further engrained in the profession by the New York courts, not only by requiring anonymous reporting of voluntary pro bono services and financial contributions, but also by requiring law students and recent law grads to perform fifty hours of pro bono service before they can be admitted to the New York State bar.

Rule 6.1 of the Rules of Professional Conduct provides that, "(a) Every lawyer should aspire to: (1) provide at least 50 hours of pro bono legal services each year to poor persons; and (2) contribute financially to organizations that provide legal services to poor persons."

The New York State Bar Association has always encouraged its members to comply with Rule 6.1 and recognizes those attorneys and law firms that go above and beyond in this regard. At the same time, the

Association is cognizant of the challenges some attorneys face in reaching these aspirations. Attorneys are regular people who have businesses to run and families to support. However, there is no denying that, as a member of this profession, all attorneys are uniquely situated to do the public good.

provide legal services to low-income New Yorkers, all attorneys can find a way do the public good.

All of these forms of pro bono service, among others, are available and encouraged by New York's judiciary. Yet, despite the profession's dedication to pro bono service, deep gaps in access to justice remain prevalent

*As a member of this profession,
all attorneys are uniquely situated
to do the public good.*

The New York State Bar Association and its Department of Pro Bono Services are here to connect attorneys with pro bono opportunities that fit their lives and benefit the lives of low-income New Yorkers. Whether an attorney volunteers for a local civil legal service organization by handling a case from beginning to end, rendering limited scope legal representation through a "lawyer for the day" program, counseling rural clients via videoconferencing technology available at non-profit organizations, doing pro bono in your pajamas from your home computer via ny.freelegalanswers.org, or contributing financially to organizations that

across New York State. Immigrants, survivors of domestic violence, veterans, and many others need your help. There is no better time than now to give us a call and find out how you can do the public good.

The articles contained in this newsletter will highlight some innovative, timely and inspirational pro bono projects going on across the state right now. You will see through these articles the breadth of services being rendered, the variety of cases being handled, and recognition of those who do exemplary work as pro bono volunteers. Thank you to all those who do their part!

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The Pro Bono Newsletter is available online at www.nysba.org/ProBonoNews

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Article authors are responsible for the correctness of all information, citations and quotations. Articles may be edited for clarity and length.

Editor: Kristen Wagner, Esq.

Pro Bono Attorneys in Albany and Rochester Provide Remote Limited Scope Services to Rural Clients with the Closing the Gap Program

By Mike Grunenwald, Program Coordinator, Pro Bono Net and Melody Harkness, PAI PBI Coordinator – Closing the Gap, Legal Aid Society of Northeastern New York

The concentration of legal services organizations and pro bono attorneys in New York's urban centers has resulted in a significant imbalance in the availability of legal services for low-income urban and rural populations. Most rural upstate communities have precious few lawyers and

income rural communities.

Closing the Gap (www.closingthegapny.org) is a remote services delivery platform that builds legal assistance capacity in rural upstate communities by facilitating limited scope assistance from pro bono volunteers based in Albany and Rochester. Clos-

little or no access to pro bono legal services, leaving low-income individuals in rural areas to fend for themselves when faced with legal threats to their finances, housing, and families. Remote services delivery seeks to use technology to bridge this divide between pro bono and legal aid resources in urban areas and low-

ing the Gap is made possible by an LSC Pro Bono Innovation Fund grant to the Legal Aid Society of Northeastern New York. Project partners include Legal Assistance of Western New York, Volunteer Legal Services Project of Monroe County, and Pro Bono Net.

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Closing the Gap Program

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Closing the Gap launched in the Spring of 2016 with a training event for volunteers and staff in Albany, NY. Since the training, CTG volunteers have started taking housing and consumer cases involving default judgments, debt collection notices,



Left: Michaela Azemi (LawNY), Danielle Nelson (VLSP), Danielle Sharp (VLSP), Melody Harkness (LASNNY)

Right: Anna Hineline (LAWNY), Anna Anderson (LAWNY) Summer CTG coordinator training in Rochester, NY.

income executions, non-payment and holdover proceedings, petitions for possession of real property, with the exception of one, involving no litigation. The concept of Closing the Gap is having pro bono attorneys conduct virtual interviews with clients in rural areas using the site's integrated real-time web video chat and document sharing features, all while preparing a pro se pleading using Law Help Interactive software (LHI), specially developed for use by pro bono attorneys assisting upstate clients.

This software serves as a training mechanism for both experienced and inexperienced attorneys, one of the many reasons that makes this program so great. LHI is designed with a Q&A format in which the questions are populated based on the answers provided during the virtual interview. Once the interview is complete, LHI generates the answers into specific legal format in a Word document. These interactive interviews enable volunteers with little or no experience in housing and consumer cases to generate high quality pleadings for their clients to print and file pro se.

The goal of the Closing the Gap project is to increase the quantity and scope of pro bono service delivery in housing and consumer cases in rural upstate New York. We are currently in the midst of a 12 month pilot during which we are gathering data about the



Left Top: Lillian Moy (Executive Director, LASNNY), Left Bottom: Michele Sleight (PAI Director, LASNNY) Right Top: Sheila Gaddis (Executive Director, VLSP) Right Bottom: Melody Harkness (PAI PBIF Coordinator, LASNNY)

Pro bono meeting at Barclay Damon, LLP in Albany, NY.

experiences of volunteers and clients that will allow us to improve workflows and identify opportunities for growth. The project has great potential to expand statewide, and to enable virtual legal clinics with libraries and other community access partners to address urban-rural service challenges.

Since our launch, Closing the Gap has increased participation among pro bono attorneys in western New York, Albany, Saratoga, Schenectady and Rensselaer counties as well as Staten Island and Westport, CT due to the ease and convenience in the virtual aspect of pro bono assistance. After signing up, the pro bono attorney is registered as an advocate on the Closing the Gap website (www.closingthegapny.org) where they can view and share documents, instant message and chat with the client, conduct a virtual interview, view training resources, and gain access to Law Help Interactive software. The pro bono volunteer has the option to select his/her prefer-

ence in how often he/she would like to receive CTG referrals. Additionally, LASNNY provides rural support staff to assist with facilitating each virtual interview and beyond.

At the heart of the Closing the Gap project are the pro bono attorneys



Left: Mike Grunenwald (Program Coordinator, Pro Bono Net)

Right: Melody Harkness (PAI PBIF Coordinator, LASNNY)

2016 New York Statewide Civil Legal Aid Technology Conference, New York Law School, New York City.

who generously volunteer their time to participate in the pilot. One of our volunteers is Jordan Chisolm, an attorney with Whiteman Osterman & Hanna, LLP in Albany. One particular case in which Mr. Chisolm was trium-



Chisolm

phant involved a client who was at risk of losing housing. The client was facing a retaliatory eviction due to the

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Closing the Gap Program

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conditions of the home. Mr. Chisolm interviewed the client through the Closing the Gap website and immediately identified numerous discrepancies with the process in which the opposing party brought suit against the LASNNY client. With the help of the integrated interactive interview, Mr. Chisolm prepared the client's pleading with justifiable procedural defenses. Because of his efforts, the client's eviction was dismissed and both parties were able to come to a mutual agreement. As described by the client, *"Jordan was so good, the 'judge' in my little town had to look up all of the cases he cited in my answer and counterclaim. He hit it out of the ball park! Thanks so much."* We are pleased to say that the client is still happily residing in her home free from any further housing or habitability issues.

Another client successfully vacated a \$2,585 default judgment with their pro se answer prepared by Art Siegel of Bond, Schoeneck and King. This client's paycheck was being garnished

when the client came in requesting legal services. We can now say that through Mr. Siegel's assistance by using interactive software to produce an Answer and Order to Show Cause (documents generated within Law Help Interactive) we reduced the client's financial burden.

Another referral involved a client who was illegally evicted out of his residence while incarcerated. Not only was the client evicted, upon being released, the client discovered that the landlord was also attempting to gain ownership of his property. The client resided in a mobile home park in which all tenants were on "verbal lease agreements." Fortunately for the client, his case landed in the hands of a diligent Closing the Gap volunteer, Veronica Reed of the Law Office of Veronica Reed. Veronica successfully proposed a settlement that reinstated the LASNNY client's tenancy with a one year written lease agreement (which has now been provided to EVERY tenant in the mobile home park).

LASNNY is eager to hear about the continuous results of the Closing the Gap cases that have been coming in since the unveiling of this new program. Closing the Gap is looking for more volunteers like Jordan Chisolm, Art Siegel, and Veronica Reed who are interested in using cutting edge technology to expand access to justice for underserved communities in rural upstate New York. If you are interested in volunteering, and you are located in the Capital District, please contact Melody Harkness, mharkness@lasnny.org, at the Legal Aid Society of Northeastern New York. If you are in the greater Rochester area, please contact Danielle Nelson, dnelson@vlsprochester.org, at the Volunteer Legal Services Project. If you have any questions about the Closing the Gap project, contact Mike Grunenwald, mgrunenwald@probono.net, at Pro Bono Net.

We hope you will start the New Year by volunteering with Closing the Gap!

NEW YORK STATE BAR ASSOCIATION

Lawyer Referral and Information Service

Interested in expanding your client base?



Why Join?

> Expand your client base > Benefit from our marketing strategies > Increase your bottom line

Overview of the Program

The New York State Bar Association Lawyer Referral and Information Service (LRIS) has been in existence since 1981. Our service provides referrals to attorneys like you in 44 counties (check our website for a list of the eligible counties). Lawyers who are members of LRIS pay an annual fee of \$75 (\$125 for non-NYSBA members). Proof of malpractice insurance in the minimum amount of \$100,000 is required of all participants. If you are retained by a referred client, you are required to pay LRIS a referral fee of 10% for any case fee of \$500 or more. For additional information, visit www.nysba.org/joinlr.

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The Legal Aid Society and Cleary Gottlieb Challenge the Constitutionality of New York's Loitering for Prostitution Law: Demand an End to NYPD's Arbitrary and Discriminatory Enforcement of the Law Against Women of Color

Louis Sartori, Director of the Pro Bono Practice, The Legal Aid Society

On Friday, September 30, 2016, The Legal Aid Society of New York and Cleary Gottlieb Steen & Hamilton LLP filed a civil rights class action against the City of New York and certain named officers of the New York City Police Department (NYPD) on behalf of women of color, many of whom are transgender, who have been wrongly arrested for innocent conduct under New York Penal Law Section 240.37. The plaintiffs challenge Section 240.37, loitering for the purpose of prostitution, because it is unconstitutional on its face and also because it is unlawfully enforced by NYPD officers who target women for arrest based on race, gender, ethnicity, gender identity, and/or appearance. The lawsuit's announcement garnered widespread praise and enthusiasm from human and civil rights advocates.

"When you look at who is arrested under 240.37, and the pattern since the law was enacted four decades ago, a clear picture of discrimination emerges," said Tina Luongo, Attorney in Charge of the Criminal Defense Practice of The Legal Aid Society. "The statute must be struck down because it allows this injustice to go on." According to the complaint filed in the Southern District of New York, data show that 85% of the individuals arrested under Section 240.37 are Black or Latina. Between 2012 and 2015, five precincts in New York City accounted for nearly 70% of all city-wide Section 240.37 arrests. These precincts (Bushwick, Brooklyn; Belmont/Fordham Heights, Bronx; East New York, Brooklyn; Hunts Point, Bronx; and Brownsville, Brooklyn) are all in

neighborhoods where the majority of residents are people of color.

Under Section 240.37, a woman can be improperly arrested and detained simply because an officer takes issue with her clothing or appearance and decides that her purpose is to engage in prostitution. The Legal Aid Society has represented women assumed to be loitering for prostitution because they were wearing a "short dress," "a skirt and high heels," "tight black pants," or "a black dress." An outfit considered appropriate elsewhere becomes the basis for an arrest when worn by a woman of color on Pennsylvania Avenue in Brooklyn or Jerome Avenue in the Bronx. As one plaintiff explains, NYPD practices make women like her "fearful" of arrest based on "what I have on."

Kate Mogulescu, a Supervising Attorney in the Criminal Defense Practice at The Legal Aid Society has represented hundreds of women charged with loitering for prostitution over the last several years. "These arrests lack oversight and escape scrutiny," Mogulescu explained. "It is not just defenders who take issue with the quality of arrests. Judges and prosecutors recognize that many arrests under Section 240.37 are unlawful and absurd. Yet, the practice continues and its crushing weight falls squarely on our clients – an already marginalized group who then suffer the permanent consequences of involvement in the criminal legal system and the stigma of a prostitution-related arrest."

Despite claims that it has reformed its relationship with the transgender community, the NYPD utilizes Sec-

tion 240.37's unconstitutional provisions to engage in "sweeps" aimed at arresting transgender women of color in public places where they attempt to gather and socialize as a community and avoid the violence, hostility and discrimination directed at them in other parts of the City. Police arrest transgender women for standing outside, speaking to one another, or walking from a subway or grocery store back to their house, and have expressly warned plaintiffs that "girls like them" would be arrested if they were merely seen outside after midnight. American Civil Liberties Union Staff Attorney Chase Strangio offered, "laws like Section 240.37 give too much discretion to police officers, encouraging biased policing against women of color, particularly transgender women of color, people living in poverty, and other members of the LGBT community."

One plaintiff explained that this "unjust law has affected me, my sisters, friends and family. This lawsuit is important because it will change something that is disabling my community, putting us at even more risk than what we already have to endure and face on a day to day basis." Another plaintiff noted that police profiling of transgender women for prostitution offenses is "a problem that persists around the world." Seeing the constitutional challenge to Section 240.37 as a way to stop this discrimination, she added, "let's start at Jerome Avenue in the Bronx. One voice is better than none."

Despite widespread criticism of its
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Prisoners' Legal Services of New York Launches New *Pro Bono* Projects

By Samantha Howell, Director of Pro Bono & Outreach, Prisoners' Legal Services of New York

In March 2016, PLS' Pro Bono Partnership Program launched two new *pro bono* projects to assist incarcerated New Yorkers.

The first is the Executive Clemency Project which involves a collaboration with the Department of Corrections and Community Supervision's (DOCCS') Executive Clemency Bureau (ECB) and Governor Cuomo's Office. Through this program, PLS' Pro Bono Program receives referrals from the ECB and assigns the clemency¹ applications to *pro bono* counsel.

To be eligible for commutation the applicant must meet certain threshold criteria set by the ECB. These criteria are that the applicant: (1) be serving a sentence of at least one (1) year; (2) have served at least 1/2 of the minimum indeterminate sentence or 3/7 of a determinate sentence; and (3) must not be eligible for parole within one (1) year of the date of the clemency application. If an individual meets these criteria, his/her application is then referred to a volunteer attorney/organization on the ECB's panel.

Upon receipt of a clemency refer-

ral, PLS does an additional screening before reaching out to volunteer counsel, to ensure that the case is appropriate for referral, which includes reviewing the case for merit, timeliness and a review of any obstacles or challenges presented by the issues involved.

The second project assists individuals seeking conditional parole for deportation only (CPDO) and/or early conditional parole for deportation only (ECPDO). In partnership with the Vera Institute for Justice, which has provided generous support for PLS's Immigration Initiative, and DOCCS, the new ECPDO/CPDO Project refers cases to volunteers who assist the applicant in seeking release for the purpose of removal (a/k/a deportation).

ECPDO/CPDO is a mechanism to release someone from prison who is not a U.S. citizen, prior to his/her maximum expiration date, to be returned to his/her home country. Counsel submits the application to the Parole Board which, ultimately, decides whether parole for deporta-

tion will be granted.

Like the clemency project, PLS Pro Bono Program staff attorneys do a thorough review of the case prior to referral, including requesting relevant documents and seeking releases for family and friends who might be willing to provide supporting affidavits or letters.

Attorneys volunteering with PLS benefit from a host of support services including support from our staff attorneys, who are experts in prisoners' rights issues, liability coverage, assistance in filing/serving documents, review of pleadings and CLE credits for any in-person training or *pro bono* service.

If you are interested in volunteering with either project, please contact Lisa Weinstein, Pro Bono Coordinator, at lweinstein@plsny.org or 518-445-6050.

1. In New York, *clemency* refers to pardons and commutations. Pardons provide relief to those who have completed their sentence but are disadvantaged due to their criminal history. A commutation reduces the recipient's current sentence. PLS is working on commutation applications *only*.

The Legal Aid Society and Cleary Gottlieb Challenge the Constitutionality of New York's Loitering for Prostitution Law

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stop and frisk practices, the NYPD allows its officers to use Section 240.37 to harass and repeatedly arrest women whom they have previously arrested for a prostitution offense, even when they do not observe the women engaging in any criminal behavior. Criminal court judges take issue with this widespread practice, emphasizing that when police arrest a woman and charge her with loitering for prostitution simply because she has previously been arrested for prostitution, it amounts to "emblazon[ing]" a "scarlet letter" upon her and thus violating core principles of a "free society." For example, in one case, a woman was leaving a

restaurant in a busy commercial area when officers who knew her from a previous arrest called her over to them by her name and arrested her without cause. She described how the NYPD uses Section 240.37 to unfairly target women: "They see women who they know that have a history of prostitution and they profile us. I should be able to walk wherever I want." A plaintiff repeatedly arrested merely because of her prostitution record now feels as though she is not able to go outside in Brooklyn. "My record is bad, but it shouldn't be that any time they see me it's 'let's take a field trip to the precinct.'"

"Section 240.37 poses a serious

threat to the civil and constitutional rights of women of color, who are too often unfairly targeted by the police, and the law fails to provide basic safeguards against abuses of discretion by law enforcement," said Rishi Zutshi, Partner at Cleary Gottlieb Steen & Hamilton LLP. Although society has firmly rejected many of the flawed assumptions about gender, gender identity, sexuality, and appearance that prevailed 40 years ago, the NYPD continues to rely on these outdated and discriminatory notions to justify arrests under Section 240.37 without probable cause. The lawsuit seeks to put an end to these unjust practices and to this unconstitutional law.

Judge Rules City's Human Rights Law Prohibits Landlords from Refusing Rent Vouchers for Homeless Families

By Louis Sartori, Director of the Pro Bono Practice, Legal Aid Society

On July 7, 2016, the Court in *Alston et al. v. Starrett City, Inc. et al.* issued a decision declaring that the City's Human Rights Law prohibits landlords, including the defendant Spring Creek, formerly known as Starrett City, from refusing to accept the City's Living in Communities (LINC) rent vouchers for homeless families. The Court found that the "language and a fair reading of the subject statute should be interpreted liberally to include all forms of housing assistance..." and ordered Spring Creek, the largest privately owned rental complex in New York City, to process the plaintiff's application.

The Legal Aid Society and Mayer

Brown, LLP filed this action in NYS Supreme Court alleging that the defendants, in violation of the New York City Human Rights law that prohibits discrimination based on source of income, refused to rent to them when the defendants learned they wanted to use the LINC voucher to pay the rent. The plaintiffs in this case are the Fair Housing Justice Center and two homeless New Yorkers who sought to rent apartments from the defendants.

After Plaintiffs sought a preliminary injunction to direct Starrett City, Inc. to process Plaintiffs' applications free of any discriminatory practices, Defendant filed a motion to dismiss

the complaint claiming that the prohibition against source of income discrimination does not require it to accept a LINC voucher. The Court denied Defendant's motion, rejecting the contention that the statute was only intended to prevent discrimination against Section 8 voucher program participants. The Court further contended that this remedial statute should be read liberally and noted at least one other courts has deemed the statute applicable to other housing assistance programs. Accordingly, the Court granted Plaintiffs' motion and directed Defendant to process her application "notwithstanding the basis of her source of income..."

Lawyers Alliance and Pro Bono Attorneys Strengthen Nonprofits Improving Urban Health

By Mary Burner, Staff Attorney and Stacey Fahey, Pro Bono Counsel, Lawyers Alliance for New York

Lawyers Alliance for New York, with the help of a large pro bono network, provides business and transactional legal services for nonprofit organizations that are improving the quality of life in New York City neighborhoods. For several years, Lawyers Alliance's Urban Health program priority area has focused on strengthening organizations that are working to prevent illness, promote food security and healthy aging, make New York City a greener place, and deliver community-based healthcare and social services for low income populations and communities. Currently, a major Urban Health area of emphasis is helping nonprofits that are navigating Medicaid Redesign in New York, the goals of which include lowering hospitalization rates, increasing coordina-

tion of care, and improving quality. Lawyers Alliance's nonprofit clients affected by these changes include behavioral health organizations, community health centers, senior centers, supportive housing providers, advocacy organizations, and multiservice social services providers. Some of the changes that nonprofits are facing include a requirement to contract with managed care companies or with hospital-led networks that are leading a statewide initiative known as the Delivery System Reform Incentive Payment (DSRIP). Other clients require advice to better understand their obligations under HIPAA and to develop appropriate policies and practices to protect patient health information while simultaneously working with other providers to make

services more integrated and cohesive. Other nonprofits require legal guidance around considering strategic alliances or other new structures that will allow them to strengthen the health and viability of their organizations in these times of rapid change.

Case Examples:

Community Health Action of Staten Island (CHASI), a provider of health education, prevention, and direct services for vulnerable populations, requested our assistance in forming a potential strategic alliance with Brightpoint Health, a nonprofit healthcare and social services provider which operates in every borough except Staten Island. Because Bright-

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Lawyers Alliance and Pro Bono Attorneys Strengthen Nonprofits Improving Urban Health

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point Health has the status of a federally qualified health center, CHASI would benefit by being able to seek a higher reimbursement rate for its services, and Brightpoint Health would be able to expand to Staten Island. Pro bono counsel from Dentons LLP provided assistance to CHASI in entering into the strategic alliance while still maintaining control of its programs, allowing CHASI to better provide critical health and support services to at-risk communities. A representative of CHASI stated that the pro bono attorneys were “very helpful in drafting the affiliation agreement with Brightpoint Health” and as a result, forming the alliance was a “smooth process that moved very quickly.”

Sky Light Center (SLC), a community organization in Staten Island that empowers individuals with mental illness to live meaningful and productive lives in the communities through employment, housing, and social support, needed help in drafting HIPAA compliant privacy policies. This work was important for SLC as a significant portion of their funding that was received through government grants would now flow through

contracts with a managed care organization (MCO). Pro bono counsel from Manatt, Phelps & Phillips assisted SLC in preparing its HIPAA policies, which allowed SLC to engage in appropriate information sharing with the MCO as well as adapt to the changes brought on by Medicaid Redesign. The HIPAA “Policy and Procedure Manual” that pro bono counsel helped to create allowed SLC to comply with the MCO requirements. SLC reported that, being a small nonprofit that was moving towards a statewide reimbursement model, “having the ability to reach out for pro bono support was critical to move forward.”

Some Urban Health clients request assistance with other types of legal work, including intellectual property. My Blind Spot is an organization which seeks to improve the quality of life for individuals without sight by promoting understanding among students, parents and educators. My Blind Spot sought our help with registering its name with the U.S. Patent and Trademark Office to ensure it would be able to use its branding to promote its programming. Matched

with pro bono attorneys from Greenberg Traurig LLP, My Blind Spot was able to file for trademark protection, and since 2015, has had its trademark application published. A representative from My Blind Spot was thankful for the “supportive services of pro bono counsel” and was now able to work nationally to “ensure that people with disabilities are able to access entitlements available to other members of society: education, employment, community participation.”

The number of nonprofits in the Urban Health area that are working with Lawyers Alliance continues to grow, and attorneys in the pro bono network continue to eagerly take on new matters as they arise. On a yearly basis, Lawyers Alliance works with 1,650 volunteer attorneys from more than 130 law firms, whose legal services allow nonprofits to continue to improve the quality of life for New Yorkers. If you are interested in learning more about Lawyers Alliance or the process of becoming a pro bono volunteer, please visit our website at www.lawyersalliance.org or contact Stacey Fahey, Pro Bono Counsel, at sfahey@lawyersalliance.org.

Have an **IMPACT!**

As the charitable arm of the New York State Bar Association, The Foundation seeks donations for its grant program which assists non-profit organizations across New York in providing legal services to those in need.

Why give to The Foundation

- We operate lean, fulfill our mission, provide good stewardship of your gift and contribute to a positive impact on legal service access across New York.

When you give to The Foundation your gift has a ripple effect

- Your donation is added to other gifts making a larger financial impact to those we collectively assist.

Make a difference-give today! www.tnybf.org/donation/

Double your gift...

Some companies have a matching gift program that will match your donation. See if your firm participates!



“I am a member of The Foundation’s Legacy Society because I want part of my legacy to provide ongoing support to the important work of The New York Bar Foundation throughout the State in helping to provide access to justice, improve the legal system and promote the rule of law, as well as support the educational programs of the New York State Bar Association.”



David M. Schraver
Nixon Peabody LLP, Rochester, NY



A Call for Volunteers

By Michele Sleight, Private Attorney Involvement Director, The Legal Aid Society of Northeastern New York

As 2016 comes to a close and we begin with a fresh start in 2017, pro bono at the Legal Aid Society is as strong as ever. The Private Attorney Involvement (PAI) Program remain busy staffing clinics, organizing and co-sponsoring trainings, recruiting new volunteers, and screening clients for our programs and referrals.

As you know, the massive justice gap in New York, and all over the country, leaves approximately 70% of low income litigants without counsel to ensure that their legal interests are protected. With the dedication and service of our pro bono volunteers, we are able to narrow that gap because they collectively volunteer hundreds of hours of their time on matters for our clients. Unfortunately, so many still forgo services because of severely limited resources.

The PAI program aims to provide services to as many clients as possible, which means that we must continually adapt our program in order to best suit our clients' needs. For example, during the height of the recession and in the years immediately following, our unemployment insurance benefits clinic provided services to upwards of 200 clients each year. Fortunately, these services are not as in demand, which means that the job prospects have much improved for so many of our clients. As such, we look to our clients and practitioners to let us know what is most needed instead.

One area which has seen an increasing demand for services is name changes, particularly those for transgender individuals. This is an absolutely life changing service, in so many respects. We have heard that a name change lifts a significant burden off of our clients' shoulders, and without the assistance of the pro bono attorney, they would continue to carry that weight. In some cases, clients are exposed to violence, harassment, and bullying because the name which they go by does not "match" their physical appearance. The ability to refer cases

to volunteers so that our clients are provided with, in some respects, a new and safer life, is something that Legal Aid would like to continue.

Another area is divorces for clients who are victims of domestic violence. While we do have several clinics throughout our service area, those are for pro se clients who have simple cases and for whom danger of harm to the clients is not an issue. We have clients who are in dire need of one-on-one representation from practitioners who have a thorough understanding of the dynamics of domestic violence, and thus can and will tailor their legal strategy keeping those considerations in mind. We do have a panel of volunteers currently, but since this is an area for which there is constant need, I continually try to recruit additional volunteers. Attorneys willing to do this work are needed all over our 16 county service area. Those counties are: St. Lawrence, Franklin, Essex, Clinton, Hamilton, Warren, Wash-

ington, Saratoga, Albany, Rensselaer, Schenectady, Fulton, Schoharie, Montgomery, Columbia and Greene.

Lastly, we have seen an increased need for attorneys who are willing to draft wills, powers of attorney, and occasionally trusts for our clients. End of life decisions are difficult for anyone to consider, and the ability to hire an attorney prevents so many from being able to memorialize these. Most often, our clients have very simple documents, and have reasons for wanting to avoid the intestate rules, due to a falling out with family or some other circumstance. It brings these clients great peace of mind, knowing that their final wishes will be carried out.

If you or anyone you know, are interested in assisting clients in these three, or any other areas, I'm eager to speak with you! I can be reached at (518) 689-6322, or msleight@lasnny.org. I look forward to the fresh year upon us and to speak with new volunteers!

PRO BONO VOLUNTEERS ARE...

- P** Professionally persistent.
- R** Reliable. Always ready, willing and eager to serve.
- O** Optimistic, even when the odds appear to be stacked against the client.
- B** Believers in justice, fairness, and that where there is a will, there must be a way!
- O** Outgoing and enthusiastic.
- N** Needed. They never give up and are tenaciously creative.
- O** On call and available to tackle the most difficult cases.

Benefits of Pro Bono Work

by Judith Zirin-Hyman, Legal Trainer, Legal Services of the Hudson Valley

Top 3 Reasons You Should Do Pro Bono Work Right Now:

1. It Will Make You Happy and Healthy

Doing Pro Bono work, by definition, helps others – but there are numerous benefits to volunteers themselves as well. Many studies, including a leading one at the London School of Economics, have demonstrated that the more frequently you volunteer, the happier you will be. Volunteering increases our capacity for empathy, and changes the reference point of who we compare ourselves to. When we are around people who need our help, it can make us aware of and grateful for what we have.

There's a chemical basis for these increased feelings of well-being. When we think about helping others, our brain's mesolimbic pathway is activated, which leads to feelings of gratification. Helping other people increases our own production of happiness chemicals - including dopamine, endorphins (that block pain signals) and oxytocin (the hormone related to tranquility.) The mere thought of helping a particular charity can ignite these chemical processes.¹

There are numerous – and direct – health benefits associated with volunteering. Adults over the age of 50 who volunteer regularly are less likely to develop high blood pressure than those that don't. Volunteering can both boost self-esteem and protect from social isolation, and these are linked to better health in older adults. And volunteers actually live longer – there is significantly reduced mortality.² One caveat, though – the increased life span only seems to accrue as a benefit to volunteers whose intentions are genuinely altruistic.³

Volunteering is linked to better sleep, better friendships and social connections and decreased levels of anxiety, helplessness and hopelessness.

ness.⁴ Seniors who volunteer experience reduced levels of dementia and cognitive decline, and fewer functional limitations.⁵ Though the focus of doing Pro Bono work is to help others, the benefits to you may not only be professional, but also significantly personal.

2. It Will Enhance Your Skill Set and Network

The professional benefits of Pro Bono work are numerous and multifaceted. Many Pro Bono attorneys have their first oral arguments and first depositions when handling pro bono cases. Young associates doing Pro Bono work may appear in court sooner and get hands-on experience that is not readily available when beginning practice with a firm.

At any age and level of experience, Pro Bono work can expose attorneys to areas of practice they may not have otherwise encountered. Through volunteering to take on new kinds of cases, many attorneys discover a passionate interest. They may find a new professional interest, an avocational one or simply develop a passion for helping others.

Practically, attorneys can develop writing samples, find references and get client exposure through their Pro Bono work; often in ways that they may have difficulty finding as new attorneys or in private firm settings.

Pro Bono practice facilitates networking in new markets - growing networks through meeting attorneys involved in cases, agencies, court systems and more. This provides an opportunity to meet like-minded people – and to expand existing networks. Colleagues respect and admire those who help others. The benefits to reputation of doing Pro Bono work include an enhanced perception of both character and legal skills.

3. It Will Help Your Firm and Community and Increase Access to Justice

Robust Pro Bono programs, unofficial training grounds in giving new attorneys the opportunity to develop hands-on skills, can be an attractive recruitment tool for firms, helping them to not only train associates, but also to attract and retain them.

Many firms have found that their commitment to pro bono work is appealing to prospective clients as well. Through Pro Bono programs, firms can develop entry points to business communities, and relationships with community leaders who serve on boards of local non-profits and can be powerful referral sources.

Pro bono work can be morale building within a firm, can be used in marketing the firm to prospective clients, and many firms undertake pro bono projects with their corporate clients, adding depth to those relationships as well.⁶

Courts themselves appreciate having Pro Bono attorneys who can take on cases. Limited court resources are strained attempting to guide so many unrepresented litigants through the court system.

Pro bono is short for *pro bono publico*, Latin for "In (or for) the Public Good". There are many whose access to the legal system is limited, as they cannot afford an attorney. As the number of people living below the poverty line has increased, so have their legal needs. Legal issues facing the indigent can include homelessness, foreclosure, eviction, debt, bankruptcy, public benefits issues, issues affecting domestic violence victims, the elderly, veterans – the list is endless. 80% of low income people have trouble accessing the legal services they need,⁷ and there is less than one civil legal services attorney to help every 10,000 Americans living in poverty.⁸ While Pro Bono attorneys can't replace legal services attorneys, their participation goes far in addressing the needs of the indigent.⁹

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Benefits of Pro Bono Work

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The courts can implement Pro Bono guidelines and requirements, and they have,¹⁰ but it is up to each attorney to take up this mandate in a meaningful, rewarding way, seeing opportunity rather than burden.

Representing indigent clients on a Pro Bono basis makes the justice system accessible to those who need it most. In the process, many find that volunteering lets them be the kind of lawyer they intended to be and/or aspire to be, committing anew to the values of the legal profession and recalling their initial reasons for choosing law as a profession.

Feeling overburdened, unhappy or disheartened shouldn't lead members of the bar to feel incapable of taking on Pro Bono work – rather, this kind of work can be a catalyst and a remedy, an opportunity to do good and feel good and forge change. Helping others provides a significant stepping

stone to reclaiming the purpose, civility and, in essence, the heart of the legal profession.

1 *Be generous: It's a simple way to stay healthier*, Terri Yablonsky Stat, <http://www.chicagotribune.com/lifestyles/health/sc-hlth-0812-joy-of-giving-20150806-story.html> (2015).

2 *"Volunteering is Associated with Delayed Mortality in Older People: Analysis of the Longitudinal Study of Aging,"* Harris, Alex H. S. and Carl E. Thoresen, *Journal of Health Psychology*, 2005,10 (6), 739–752.

3 *Volunteering may be good for body and mind*, Stephanie Watson <http://www.health.harvard.edu/blog/volunteering-may-be-good-for-body-and-mind-201306266428> (2013).

4 *Be generous: It's a simple way to stay healthier*, Terri Yablonsky Stat, <http://www.chicagotribune.com/lifestyles/health/sc-hlth-0812-joy-of-giving-20150806-story.html> (2015).

5 *Be generous: It's a simple way to stay healthier*, Terri Yablonsky Stat, <http://www.chicagotribune.com/lifestyles/health/sc-hlth-0812-joy-of-giving-20150806-story.html> (2015).

6 *Pro Bono: It Pays to Be Good*, Roy S. Ginsburg, <https://www.attorneyatwork.com/pro-bono-it-pays-to-be-good/> (2012).

7 *Closing the Justice Gap*, Brennan Center For Justice, <https://www.brennancenter.org/issues/closing-justice-gap>.

8 Justice index 2016.

9 *Report of the Pro Bono Task Force*, Legal Services Corporation, www.lsc.gov/media-center/publications/report-pro-bono-task-force.

10 ABA Model Rule 6.1 of Professional Conduct of the American Bar Association: a lawyer should aspire to render at least fifty (50) hours of pro bono publico legal services per year.

Rule 6.1 of the New York Rules of Professional Conduct strongly encourages lawyers to aspire to provide at least 50 hours of pro bono service each year and quantifies the minimal financial contributions that lawyers should aspire to make to organizations providing legal services to the poor and underserved. 22 NYCRR 1200.

22 NYCRR 520.16: Pro Bono Requirement for Bar Admission Fifty-hour pro bono requirement. Every applicant admitted to the New York State bar on or after January 1, 2015, other than applicants for admission without examination pursuant to section 520.10 of this Part, shall complete at least 50 hours of qualifying pro bono service prior to filing an application for admission with the appropriate Appellate Division department of the Supreme Court.

Pam Wexler, Career Volunteer

By Judith Munoz, Pro Bono Manager, New York Legal Assistance Group

In the two years Pam Wexler has been working with NYLAG as a pro bono attorney she has logged over 2,000 hours of service and is such a familiar face at NYLAG's office in lower Manhattan that many people assume she is an employee. That is certainly the way she thinks of herself.

"I had been a volunteer for many years before I got to NYLAG, so for me volunteering is my career. Anything I take on I do 100 percent - I don't know any other way. I need to be fully part of a team to reach my full potential, for myself and the women and children I serve. And NYLAG has given me the chance to do that," said Wexler.

Wexler works with the Matrimonial and Family Law Unit (FLU) representing domestic violence survivors in divorce proceedings and helps her clients secure child and spousal support. The work of addressing the complex and diverse legal needs of survivors is intense and demanding. As a former

corporate and securities attorney she did not have a background in family law, so the learning curve was steep early on. But she got up to speed quickly thanks to what Wexler calls the "teaching hospital" culture at NYLAG, with a number of FLU attorneys mentoring and encouraging her along the way.

Wexler's path to NYLAG is inextricably linked to her commitment to UJA-Federation of New York, where she has been volunteering for more than 25 years. As a member of the Nedivot Fund, a UJA Westchester Women's Impact Philanthropy Group, she became aware of NYLAG's work in support of Orthodox Jewish women, who are traditionally underserved and isolated and face significant religious and cultural pressures to remain silent in the face of abuse. The Nedivot Fund provided grants to support this project for five years.

Wexler remembers a beautiful spring day when FLU attorneys had

come to the UJA office in Westchester for a grant renewal presentation to Nedivot. She shared her dream of combining her years of experience as a volunteer with UJA-Federation and its network with her goal of returning to the law as a public interest attorney helping domestic violence survivors. A couple of years later, Wexler got her dream job, and NYLAG got an extraordinary new asset.

"What strikes me about Pam is the compassion she exhibits when she's working with clients and her ability to connect; her deep desire to help as many as she can. She is thorough and hard-working, doing whatever it takes to help a client," said Kim Susser, Director of the Matrimonial and Family Law Unit. "In addition to the legal support she provides is the emotional support she gives to all of us in FLU – she is always at the ready for our celebrations with flowers and candy and our sorrows with a hug.

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Pam Wexler, Career Volunteer

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The respect and admiration she gives us helps sustain us through this challenging work.”

Wexler has been working longer hours than usual over the last several months with FLU staff attorney Lana Kleiman on a complicated and contentious divorce against a very challenging pro se litigant.

“Pam devoted endless hours helping me prep for trial and she was second chair at the trial. There were some weeks when she came in on weekends to help me prepare. Every task, big or small she handled carefully and efficiently,” said Kleiman. “She is one of the most amazing women I have ever met. She is compassionate, devoted and goes above and beyond for our clients. Pam has an incredible abil-

ity to get information from people, whether it’s a clerk at the court or a custodian of records at a bank. She is truly an invaluable part of our team.”

On November 9 at the Pierre Hotel, Wexler’s twin passions for UJA-Federation and NYLAG came together at the UJA Annual New York Lions Lunch, hosted by UJA-Federation of New York. There, she was recognized for her dedication to helping women and children in need. The “Lion” refers to the Lions of Judah, an international philanthropic Jewish women’s group within the Federation system of which Wexler is a long time leader. She is a recipient of the prestigious Lion of Judah Kipnis-Wilson/Friedland award, which is given to women who have demonstrated the highest ideals of leadership

and philanthropic involvement.

“It’s been gratifying to have my work recognized by organizations I so greatly admire and support. But even more important to me has been the opportunities I have been given. UJA gave me the opportunity to have a very strong voice as a woman, and now though my work with NYLAG I have the opportunity to give voice to and empower the women I help,” said Wexler. “And I don’t only mean helping them through the legal work that I do on their behalf. I want to encourage them to better their situations by taking advantage of training and employment programs that can help them move on to better, more rewarding lives for themselves and their children.”

There are millions of reasons to do Pro Bono.

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Call the New York State Bar Association today at **518-487-5641** or go to **www.nysba.org/probono** to learn about pro bono opportunities.



Legal Services of the Hudson Valley Recognizes Volunteers

By Marian Genio, Pro Bono Director, Legal Services of the Hudson Valley

With eight offices in seven counties, Legal Services of the Hudson Valley (LSHV) undertakes its mission “to provide free, high quality counsel in civil matters for individuals and families who cannot afford to pay an attorney where basic human needs are at stake.” Even with a dedicated staff which includes over eighty attorneys, we cannot serve all those in need. With the help of generous volunteers, we are able to offer assistance to a larger number of clients. Bankruptcy is one area in which the need for legal advice persists. Fortunately, we have a panel of volunteers with expertise in this area, and it was a natural decision to honor these individuals during National Pro Bono Week.

On the evening of October 26, 2016 LSHV staff, colleagues from the legal community, friends and family gathered in our White Plains office to pay tribute to these volunteers. Over fifty guests attended the awards ceremony

and reception. Judge Robert D. Drain, of the United States Bankruptcy Court, Southern District of New York was unable to attend, but sent a note expressing the court’s appreciation for the important work done by those honored, saying “I especially regret missing the event because your volunteers really deserve recognition. . . I hope that all of you will continue to volunteer your time and expertise to those who cannot afford but deserve legal representation, and that you will persuade some of your colleagues to do so, too.”

Although many clients have the goal of being granted a discharge of their debts, each client has specific issues leading to the request for a Chapter 7 bankruptcy. The honorees offered a variety of service, including presenting at a bankruptcy clinic for pro se clients, providing individual representation to those clients who were not candidates for the clinic or

representing clients whose first language is Spanish. Clients consistently express their overwhelming gratitude when they are able to file petitions, and acknowledge that they would not have been able to do so without the assistance of LSHV and the pro bono attorneys and paralegals.

The following, each of whom brings a different perspective to the process were the evening’s honorees: Julie Cvek Curley, Esq., Deyanira Gonzalez, Paralegal, Nathan Horowitz, Esq., Dawn Kirby, Esq., Natasha Meruelo, Esq., Susan Mills Richmond, Esq., Hugh L. Rothbaum, Esq., Wendy Marie Weathers, Esq. and N. Theodore Zink, Jr., Esq.

One initiative for the upcoming year is to refine the process in order to provide service to the greatest number of clients seeking bankruptcy. We continue to rely on the expertise of our volunteers and together, hope to help those with nowhere else to turn.



Front row: Ted Zink, McCarthy Fingar, LLP, Susan Mills Richmond, Legal Aid Society of Rockland County, Wendy Marie Weathers, Cabanillas & Associates, P.C., Nathan Horowitz, Solo Practitioner; Back row: Natasha Meruelo, Solo Practitioner, Deyanira Gonzalez, Cabanillas & Associates, P.C., Marian Genio, Legal Services of the Hudson Valley, Dawn Kirby, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Hugh L. Rothbaum, Solo Practitioner; Not pictured: Julie Cvek Curley, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP

City Bar Justice Center Honors 2016 Jeremy G. Epstein Awardees for Outstanding Pro Bono Service During National Pro Bono Week

The City Bar Justice Center, honored the winners of the eighth annual Jeremy G. Epstein Awards for Outstanding Pro Bono Service at a Celebration of Service reception on October 24 from 5:30 – 7:30 p.m., at the New York City Bar Association, to kick off National Pro Bono Week.



This year's awardees are:

Brittany M. Bacon, Hunton & Williams LLP
Jonathan K. Chang, Davis Polk & Wardwell LLP
Yago Cuesta-Civis, Revlon, Inc.
Arthur M. Dresner, Duane Morris LLP
Evan K. Farber, Reed Smith LLP
Luba Jabsky, Barclays Capital Inc.
John Low-Ber, Solo Practitioner
Lauren R. Mendolera, Sullivan & Cromwell LLP
Julia B. Milne, Paul, Weiss, Rifkind, Wharton & Garrison LLP
Jurij Mykolajtchuk, Law Offices of Jurij Mykolajtchuk
Herman Raspé, Patterson Belknap Webb & Tyler LLP
Virginia F. Tent, Latham & Watkins LLP
Elie Jonathan Worenklein, Debevoise & Plimpton LLP

At the awards reception, Hon. Colleen McMahon, Chief Judge of the U.S. District Court for the Southern District of New York, delivered a keynote address and the awards were presented by Jane C. Sherburne, City Bar Fund Board Chair. City Bar President John S. Kiernan provided introductory remarks.

SDNY Chief Judge McMahon inspired all in attendance with her remarks on pro bono.

“When we think about doing pro bono work, we tend to think about providing professional service to someone who cannot afford to pay for it. And that is indeed one way to think about “pro bono” work. But there is more to pro bono than that. The phrase “pro bono publico” means “for the public good,” — not “for the good of someone who can’t afford a lawyer.” When a lawyer performs work pro bono publico, he is expressing, consciously or unconsciously, a belief that society is well-served when individuals and organizations

unable to afford counsel have competent legal representation. In a country dedicated to the rule of law, lawyers work pro bono publico because they believe that everyone – not just the wealthy and powerful -- should have meaningful access to the law, and to the courts, and a real ability to enforce the rules that are supposed to regulate the behavior of all for the protection of all.”

Lynn M. Kelly, Executive Director of the City Bar Justice Center, said, “The Justice Center is honored to acknowledge the 2016 Epstein Pro Bono Award winners stood out in each of our projects for their outstanding pro bono service. Out of over 1,000 cases the Justice Center matched with pro bono counsel, these exceptional attorneys displayed loyalty, tenacity and care on top of their demanding work schedules, embodying the spirit of pro bono. We are grateful for their efforts to increase access to justice.”

NEW YORK STATE BAR ASSOCIATION

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Questions?

Contact Kristen Wagner
Director, Pro Bono Services, NYSBA
kwagner@nysba.org | 518.487.5640



Do You Have A Story To Share...

- **Have you worked on or do you know of a special pro bono project?**
- **Has a pro bono case made a difference in the lives of others?**
- **Has an individual attorney or firm gone above and beyond to provide pro bono assistance?**

We invite you to submit articles showcasing excellence in pro bono service for upcoming editions of the Pro Bono Newsletter.

For more information, go to
www.nysba.org/probono or
email probono@nysba.org





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